

Regulations for External Fisheries Cooperation

Legislative History

- 1.Promulgated on April 11, 1967
- 2.Amended on March 2, 1990
- 3.Amended on May 30, 1992
- 4.Amended on March 9, 1996
- 5.Amended on June 29, 1999

Article 1

These Regulations (hereinafter "the Regulations") are made pursuant to Article 40 of the Fisheries Act.

Article 2

In the Regulations, the term "competent authority" or "competent authorities" means the Council of Agriculture of the Executive Yuan at the central government, municipal governments at municipalities, and county/city governments at counties/cities.

Article 3

In the Regulations, the term "external fisheries cooperation" means the cooperation between any fishery operator or fisheries organizations of the Republic of China and any foreigner, foreign organization, foreign government, or overseas Chinese within the Republic of China or abroad.

Article 4

There are two categories in external fisheries cooperation:

(1) foreign cooperation:

(A) to acquire access fishing right with payment to operate motor-based fishing vessels (hereinafter cited as "fishing vessels") in foreign exclusive fishery zone, economic exclusive zone, or territorial sea;

(B) to engage in cooperation of fisheries operation abroad by means of rental of fishing vessels, investment, or provision of capitals, fisheries technology, or patents.

(2) Domestic cooperation: any foreigner engages in cooperation of fisheries operation within the territory or exclusive economic zone in the Republic of China by means of rental of fishing vessels, investment, or provision of capital, fisheries technology, or patents.

Article 5

Any application for external fisheries cooperation in accordance with the Regulations shall be delivered to municipal/county/city competent authorities for processing to seek approval from the central competent authority.

Any application for external fisheries cooperation that involves any law or regulation

concerning vessel control, investment and technical cooperation shall be processed in accordance with the Regulations and be approved by the relevant competent authorities.

Article 6

Any person who applies for external fisheries cooperation according to Article 4(1)(A) shall submit the following documents:

- (1) An application form. (This shall include the company charter and a copy of registration license.)
- (2) A contract of cooperation.
- (3) Business work plan.
- (4) A list in which registers type, number, and name of the vessel. (This shall include the vessel's certificate of registration, certificate of examination, and fishing operation license.)
- (5) Permissions issued by a foreign government.
- (6) A letter of guarantee to dispatch fishermen back home in case of maritime distress or confiscation.

Permission issued by a foreign government indicated by Article 6(5) means an official approval given by the competent authority of the cooperation partner in the host country and has been authenticated by local Republic of China embassy, consulate, or mission. Where an embassy, consulate, or mission is absent, designated local commercial institution under the Ministry of Economic Affairs or representatives appointed by the central competent authority should be responsible for their authentication of such approval. Where a designated commercial institution or representative is absent, an overseas Chinese association registered with the Overseas Chinese Affairs Commission or a legitimate, local notary should be responsible for authentication of such approval.

Article 7

Application for external cooperation according to Article 4(1)(B) and Article 4(2) should include the following documents:

- (1) Application form. (This shall include the company charter and a copy of registration license.)
- (2) Contract of cooperation.
- (3) Business work plan.
- (4) Technical personnel (include fishermen) and staff employment contract. (If employee from foreign country, resume and related licenses are necessary; if acceptance by a foreign offer, then resume, Fishing Vessel Crew Identification, household registration record, and Fishing Vessel Officer Certificate, if applies).

In the case of cooperation based on capital investment or patent right, the documents mentioned in sub-paragraph (4) of the preceding paragraph are excluded.

In the case of cooperation based on fishing vessels rental or joint venture, the following extra documents are necessary:

- (1) Photocopies of the vessel's certificate of registration and its proof of examination.

(2) If cooperation in foreign waters is concerned, photocopy of fishing license is needed; if cooperation in domestic waters is considered, vessel layout is needed.

Article 8

Contract of cooperation described in Article 6(2) should include the following items:

- (1) Types of cooperation.
- (2) Terms of cooperation.
- (3) Types of fishing vessels, respective gross tonnage, and total amount of fishing vessels.
- (4) Types of fishery operation, location, and fishing area (including a map for fishing area).
- (5) Methods to share profits or costs of cooperation.
- (6) Terms of profit remittance by banking system.
- (7) Sales and handling of fish catch.
- (8) Terms on the guaranty and settlement of breach of the contract.
- (9) Other terms to be agreed upon.

Article 9

Contract of cooperation described in Article 7(2) should include the followings:

- (1) Types of cooperation.
- (2) Terms of cooperation.
- (3) The amount of capital authorized and proportion of investment in fishery cooperation. (Those who cooperate by renting fishing vessels are not subject to this term.)
- (4) Types of fishing vessels, its net weight in tons, and its quantity. (Those cooperate by providing capitals, fishery technology, or patents are not subject to this term.)
- (5) Means to share profits, rental incomes, or other earnings.
- (6) Terms of profit remittance by banking system.
- (7) Sales and handling of fish catch. (Those not involved in the selling of fish catch are not subject to this term.)
- (8) Details of fishing technology and patents, and any benefit to parties in cooperation. (Those not involved in the application of fishing technology or patents are not subject to this term.)
- (9) Terms on the guaranty and settlement of breach of the contract.
- (10) Others terms to be agreed upon.

Article 10

All purchasing and expenditure of foreign currency accrued in fishery cooperation with a foreign country are under the regulation of the Statute of Foreign Currency Management.

Article 11

Any fishery operator who cooperates with foreign countries according to rules prescribed in Article 4(1)(B) should follow these provisions:

- (1) Those who cooperate with fishing vessels should retreat these vessels no more than two

months after cooperation's expiry date. To sell the fishing vessel, the application that seeks approval from the Ministry of Transportation and Communications should be delivered to and transferred by the central competent authority no less than three months prior to the cooperation's expiry date.

(2) The foreign partners in cooperation should report to the central competent authority for approval if the foreign partners want to continue to hire the technical staffs, including the sailors, no less than three months prior to the cooperation's expiry date, and to obtain adequate extension period for these technical staffs in foreign countries.

Article 12

Any person involving in domestic cooperation under the prescription of Article 4(2) shall not impair our nation's fishery resources and seek to benefit the welfare of future fishery development in principle.

Any person engaging in the rental of fishing vessels or investment in domestic cooperation described in the preceding paragraph shall be restricted from domestic type of fishery operation. The imported fishing vessel that has been approved shall obtain fishing license according to Permission on the Building of Fishing Vessels and Rules Governing the Issuing of Fishing License.

Any fishing vessel rented from foreign countries but to be sold domestically within or after the expiry of terms of cooperation shall have it reported to the central competent authority for approval. The fishing license shall not be issued if approval has not been obtained.

Article 13

Parties in domestic cooperation described under Article 4(2) are prescribed by regulations on Public/Private Enterprise's Application to Hire Foreign or Overseas Chinese Personnel in case of a need to hire foreign technical personnel. The central competent authority may set restriction on the number of people being hired.

The aforementioned foreign technical personnel do not include fishermen.

Article 14

For the purpose of facilitating stability in fishery cooperation with foreign countries, and based on a need to promote national interests or to comply with the national policy of the cooperation country, the competent authority may order to prohibit external fishery cooperation from foreign countries; or to set restrictions on, or to incorporate conditions into, the contents of cooperation.

Article 15

Concerning fishery development and national interests, the central competent authority may appoint fishery organizations or non-profit organizations to process applications on behalf of the parties in fishery cooperation with foreign countries.

Article 16

Fishery operators or fishery organizations should report on their performance and progress of fishery cooperation, or give briefings on other aspects of cooperation, to the central competent authority every six months during their terms of fishery cooperation with foreign countries.

Article 17

To renew terms of cooperation, parties in fishery cooperation must repeat application procedures under the provisions of Article 6 or Article 7 three months prior to the end of the term.

Article 18

Any cooperation with foreign countries that has not been practiced one year after obtaining approval shall have its original approval waived.

Article 19

Any person breaching the Regulations hereto is subject to penalties prescribed under Article 10 of the Fisheries Act and shall have their approval of cooperation with foreign countries waived hereafter.

Article 20

The Regulations shall enter into force on the date of promulgation.